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In re Application of: BERTELSHOFER, et al.	:	
U.S. Application No.: 10/069,423	:	
PCT No.: PCT/EP00/07142	:	DECISION ON PETITION TO
International Filing Date: 26 July 2000	:	CORRECT FILING DATE
Priority Date: 17 August 1999	:	
Atty Docket No.: BERTELSHOFER	:	
For: TENSIONING DEVICE FOR A	:	
TRACTION MECHANISM DRIVE	:	

This decision is issued in response to the "Petition Under 37 CFR 1.10(c)" filed 11 October 2004 to correct the filing date herein.¹ No petition fee is required.

BACKGROUND

On 26 July 2000, applicants filed international application PCT/EP00/07142 which claimed a priority date of 17 August 1999 and which designated the United States. On 22 February 2001, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 February 2002 (17 February 2002 was a Sunday and 18 February 2002 was a federal holiday).

On 19 February 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, a translation of the international application into English, and an executed declaration in compliance with 37 CFR 1.497.

On 28 March 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 17 February 2002 as the date of receipt for the 35 U.S.C. 371 requirements. On the same date, a filing receipt was issued identifying 17 February 2002 as the filing date.

On 17 April 2003, applicants filed a Request For Corrected Filing Receipt seeking correction of the filing date to 19 February 2002. It does not appear that this request was acted on by the USPTO.

¹ The 11 October 2004 submission also included an "Amendment Pursuant To 37 CFR 1.312(a)." Pursuant to the procedure set forth in MPEP section 714.16(d), this amendment has been forwarded to the OIPE Central Scanning.

The application was subsequently forwarded for examination, and a Notification Of Allowance has now been issued.

On 11 October 2004, applicants filed the petition considered herein. The petition asserts that, because applicants filed the materials initiating this national stage application on 19 February 2002, the 35 U.S.C. 371 date for the present application should be corrected to 19 February 2002.

DISCUSSION

The Form-1390 Transmittal Letter filed by applicants (with accompanying materials) to initiate this national stage application included an "Express Mail" certification that identified the "Express Mail" label number as EV063148864US and identified the deposit date as 19 February 2002. The present petition includes a copy of "Express Mail" label number EV063148864US; this label bears a "date in" of 19 February 2002. Based on applicants' statements in the present petition and the "date in" on the "Express Mail" label, it is concluded that the materials filed by applicant to initiate this national stage application were deposited with the USPS as "Express Mail" on 19 February 2002. Pursuant to 37 CFR 1.10(c), these materials (which included the requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4)) are properly accorded a filing date of 19 February 2002.

CONCLUSION

Applicants' petition under 37 CFR 1.10(c) is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 28 March 2003 are hereby **VACATED**.

The National Stage Processing Branch of the Office of PCT Operations will be instructed to issue a corrected Notification of Acceptance (Form PCT/DO/EO/903) properly identifying 19 February 2002 as the date of receipt of the requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), and to issue a corrected filing receipt identifying 19 February 2002 as the filing date.



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